

6-27-05

IPW 3738

ANDREWS

ATTORNEYS

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June 24, 2005

Via Express Mail No. EV627509884US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Application No. 10/060,862
Filing Date: January 30, 2002
Title: Intervertebral Nucleus Prosthesis and Surgical Procedure
for Implanting the Same
Inventor: Michel Gau
Assignee: LDR Medical
Examiner: Cheryl L. Miller
Group: 3738
Attorney Docket No.: 1013-014/AK 158000

Dear Commissioner:

Please find enclosed for filing the following:

1. Power of Attorney and Correspondence Address Indication Form;
2. Statement Under 37 CFR 3.73(b);
3. Copies of Assignment documents; and
4. A return postcard for confirmation of receipt.

Commissioner is hereby authorized to charge any fees deemed to be due or credit any overpayment to Deposit Account No. 50-0897, upon which the undersigned is authorized to sign.

Please return the postcard confirming your receipt of the enclosed materials.

Very truly yours,

J. Scott Denko
Registration No. 37,606

JSD/at
Enclosures



Nucleus

PTO/SB/81 (11-04)

Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**POWER OF ATTORNEY
and
CORRESPONDENCE ADDRESS
INDICATION FORM**

Application Number	10/060,862
Filing Date	January 30, 2002
First Named Inventor	Michel GAU
Title	Intervertebral Nucleus Prothesis...
Art Unit	3738
Examiner Name	Cheryl L. Miller
Attorney Docket Number	1013-014/AK 158000

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint:

☒ Practitioners associated with the Customer Number:

36,485

OR

☐ Practitioner(s) named below:

Name	Registration Number
J. Scott Denko	37,606

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

36,485

OR

☐ Firm or Individual Name: Andrews Kurth LLP

Address: 111 Congress Ave., Suite 1700

City: Austin State: TX Zip: 78701

Country: U.S.A.

Telephone: 512-320-9200 Fax: 512-320-9292

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

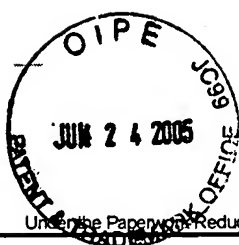
Signature		Date	31 May 2005
Name	Christophe LAVIGNE	Telephone	33(0)325823263
Title and Company	President LDR Medical		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: LDR Medical (Inventor: Michel Gau)

Application No./Patent No.: 10/060,862 Filed/Issue Date: January 30, 2002

Entitled:

LDR Medical, a corporation of France
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Michel Gau To: LDR Medical
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

J. Scott Denko Signature June 24, 2005 Date
J. Scott Denko Printed or Typed Name 512-320-9259 Telephone Number

Attorney of Record, Reg. No. 37,606

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

TRANSLATION OF THE ASSIGNMENT



PATENT ASSIGNMENT

BETWEEN THE UNDERSIGNED PARTIES :

Mr. GAU MICHEL, whose address is la Bergerie, Domaine de la Grangette, 11590 OUVÉILLAN, FRANCE

hereinbelow referred to as "the assignor",

on the one hand,

AND :

- LDR MEDICAL, SARL, having a capital of 95 460 Euros, inscribed at the *Registre du Commerce et des Sociétés* of Troyes under N° 433924529, located at Rosières-Près-Troyes (France).

Represented by its President, Mr. LAVIGNE,

hereinbelow referred to as "the assignee",

on the other hand,

THE FOLLOWING STATEMENT AND AGREEMENT HAS BEEN MADE :

ARTICLE 1 :

The assignor is the sole owner of French Priority Application N°99 10167 filed on 03/08/99, whose publication number is 2 797 179, of an International Patent Application (PCT) corresponding to the French Application, filed on 02/08/2000, whose number is WO/EP00/07497, and of Patent Applications resulting either from the French Priority, or from the PCT Application, particularly of European Patent Application EP 1 198 209, filed on 02/08/2000, and US Patent Application Serial N°10/060,862 filed on 30/01/02.

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TRANSLATION OF THE ASSIGNMENT

ARTICLE 2 :

The assignor states that the annual fees relative to said patent applications have been regularly paid and that he is the sole and exclusive owner of said patents having until today's date assigned, transferred or sold no rights of whatever kind it may be, relative to said patents. On the other hand, the assignor only guarantees the physical existence of the patents in question.

ARTICLE 3 : OBJECT

By the present assignment, the assignor transfers and assigns to the assignee, who accepts the whole and entire ownership of the patents and patents applications cited in Article 1.

ARTICLE 4: EXTENT OF THE ASSIGNMENT

The assignee enters, as from today's date, into full and entire possession of said patents and exercises unrestrainedly all of the rights and actions reserved for the patentee.

The present assignment is made for the whole duration of the patents including any possible prolongations, which may intervene. The assignee profits by all patents of addition or continuation to said patents, which may issue later on to the former owner.

ARTICLE 5 : CONSEQUENCES OF THE ASSIGNMENT

1 The Assignee is subrogated in all the rights of the Assignor, he has consequently, as from today's date, the sole right to utilize and exploit the patents concerned, as he thinks it fit, to maintain them in force or the abandon them.

2 The assignee has the right to undertake, to resume or to continue, at his one expense, risk and for his benefit, as well as in the quality of plaintiff as in the quality of defendant, all rights, solicitation proceedings and/or actions with respect to the assigned patents, including the right to pursue judicially all usurpations of previous date as well as all future usurpations. The assignee is able to claim and to receive, for his exclusive benefit, all damages due by infringers of the patents in question, for infringement actions committed before or after the present assignment.

3 From today's date, the Assignee takes in charge the renewal fees of the patents as long as he wishes to maintain them in force.

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TRANSLATION OF THE ASSIGNMENT

4 The assignee recognizes the reception by the assignor of all of the documents relative to the assigned patents; the assignee has thus, as from today's date, the responsibility for the maintenance and for the defense of the assigned patents and bears the expenses, which may be involved in this respect.

ARTICLE 6: PRICE

This patent assignment is granted and agreed in counterpart of the remittance from the Assignee to the Assignor of a sum of an amount of FF 50.000, which represents the sum of € 7.622, 45, V.A.T. not included (Seven thousands six hundred twenty two Euros and forty five cents).

Will add to this sum, the corresponding VAT based on the rate of 19.60 % in force, which represents an amount of € 1.496. The assignee will be responsible for clearing the situation regarding this tax at his tax centre.

ARTICLE 7 : GUARANTEE

The Assignor states that at today's date, no utilization licence nor assignment have been agreed on the patents, that these ones are not under pledge, and thus that the Assignee has the full disposal of them.

The present assignment only guarantees the physical existence of the patents in question.

ARTICLE 8 : OBLIGATIONS OF THE ASSIGNOR

1 The assignor states that the annual fees relative to said patent applications have been regularly paid.

2 The assignor forbids himself to directly or indirectly any kind of utilization, fabrication and sell of products conform to the claims of the patents.

3 It is binding upon the assignor to transmit freely during the duration of the assigned patents, the improvements made on the patents and to allow freely to LDR MEDICAL an exclusive licence.

ARTICLE 9 : POWER

The two parties authorize any bearer of one of the original assignment deeds to proceed with the recordal of the present assignment at the INSTITUT NATIONAL DE LA PROPRIETE INDUSTRIELLE, or at nay other national or regional office, in conformity

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TRANSLATION OF THE ASSIGNMENT

with the Law in force. The present recordal will be made at the assignee's expense and diligence.

ARTICLE 10: LAW – LITIGATION

The present contract is under the French Law.

Any litigation that may rise between the parties due to the interpretation or execution of this Assignment will be submitted, if no amicable settlement can be reached, to the Court of Troyes.

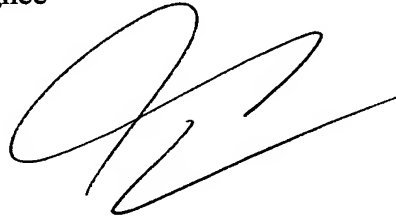
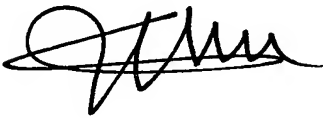
Made in triplicate, of which one copy for the recordal of the present assignment and one copy for each party.

At

On

Assignor

For the Assignee



Monsieur GAU

Monsieur LAVIGNE



CONTRAT DE CESSION DE BREVETS

ENTRE LES SOUSSIGNES :

Monsieur GAU MICHEL, domicilié La Bergerie, Domaine de la Grangette, 11590
OUVEILLAN France,

Dénommé par la suite le « cédant »

D'une part,

ET

- La société LDR Médical S A S, Société par Actions Simplifiées, au capital de 95 460 Euros, inscrite au Registre du Commerce et des Sociétés de Troyes sous le N° 433 924 529, dont le siège social est situé à Rosières-Près-Troyes 10430 (France), 4, Rue Marie Curie.

Représentée par Monsieur LA VIGNE en sa qualité de Président,

Dénommée par la suite la « cessionnaire »,

D'autre part,

IL A ETE ETABLI ET CONVENU QUE

ARTICLE 1 :

Le cédant est titulaire et seul propriétaire de la demande de brevet français N° 99 10167 déposée le 03/08/99 et publiée sous le numéro 2 797 179, d'une demande de brevet PCT correspondant à la demande française, déposée le 02/08/2000 et portant le numéro WO/EP00/07497, ainsi que des demandes de brevets issues soit de la priorité française soit de

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la priorité PCT, en particulier les demandes de brevet européen EP 1 198 209, du 02/08/2000, et américain US 10/060,862 du 30/01/02.

ARTICLE 2 :

Le cédant déclare que les annuités de ces demandes de brevets ont été régulièrement acquittées et qu'il est le seul et unique propriétaire de ces demandes de brevet et qu'il n'a à ce jour consenti aucun droit relatif de quelque nature que ce soit. Par ailleurs, le cédant ne garantit que l'existence matérielle des demandes de brevet en cause.

ARTICLE 3 : OBJET

Le cédant cède et transfère par le présent contrat à la cessionnaire qui accepte, tous les droits de propriété et de jouissance, sans exception ni réserve, qu'elle détient sur les brevets ou demandes de brevet visés à l'article 1.

ARTICLE 4 : ETENDUE DE LA CESSION

La cessionnaire aura, à dater des présentes, la jouissance pleine et exclusive attachée à la chose possédée et exercera librement tous les droits et actions réservés au breveté.

La présente cession est faite pour toute la durée des brevets y compris les prolongations qui pourraient intervenir. La cessionnaire bénéficiera de tous les certificats d'addition ou continuation aux dits brevets qui seraient ultérieurement délivrés au précédent titulaire.

Article 5: CONSEQUENCES DE LA CESSION

1 En conséquence de ladite cession, la cessionnaire est subrogée dans tous les droits du cédant sur les brevets, de sorte qu'à compter de la signature du présent contrat, elle en aura la propriété et la jouissance entières et pourra en disposer ou les exploiter à son gré, les maintenir en vigueur ou les abandonner.

2 La cessionnaire aura le droit d'entreprendre, de reprendre ou de continuer, mais à ses frais, risques et profits, tant en demande qu'en défense, tout droit, instance, procédure ou action relatif aux brevets cédés y compris le droit de poursuivre judiciairement toute usurpation antérieure ou à venir. La cessionnaire pourra réclamer et recevoir, à son profit exclusif, tous les dommages et intérêts dus par des contrefacteurs des brevets en question pour des actes de contrefaçon commis avant et après la présente cession.

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3 La cessionnaire acquittera à compter du jour de la signature du présent acte, les annuités des brevets pour autant qu'elle souhaite les maintenir en vigueur.

4 La cessionnaire reconnaît que remise lui est faite de toutes pièces relatives aux demandes de brevet cédées. Elle aura à compter de ce jour la charge du maintien en vigueur et de la défense des demandes de brevet cédées et supportera les frais correspondants.

Article 6: PRIX

La présente cession est consentie et acceptée en contrepartie du paiement par la cessionnaire au cédant, de la somme de 50.000 Francs, soit 7.622.45 € H T (Sept mille six cent vingt deux Euros et quarante cinq centimes).

A cette somme s'ajoutera la Tva au taux en vigueur, 19.60 %, soit 1.494 euros, à charge pour le cédant de régulariser sa situation vis-à-vis de cette taxe auprès du Centre Fiscal dont il dépend.

Article 7: GARANTIE

Le cédant déclare qu'au jour de la signature du présent contrat, aucune licence d'exploitation ni cession n'ont été consenties sur les brevets, lesquels ne font par ailleurs l'objet d'aucun gage ou nantissement, qu'ainsi le cédant en a la libre disposition.

La présente cession est faite sans aucune autre garantie que celle de l'existence matérielle des brevets.

Article 8: OBLIGATIONS DU CEDANT

- 1 Le cédant déclare que les annuités des brevets, objets de la présente cession, ont été régulièrement acquittées.
- 2 Le cédant s'interdit directement ou indirectement toute exploitation, fabrication, et vente de produits similaires aux revendications des brevets.
- 3 Le cédant s'engage à communiquer gratuitement pendant la durée de validité des brevets cédés les perfectionnements apportés à ces brevets à la société LDR Médical.

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Article 9 POUVOIR

Tout pouvoir est donné au porteur d'un exemplaire original pour procéder aux formalités d'enregistrement et d'inscription du présent contrat sur le Registre National des Brevets (RNB) tenu à l'Institut National de la Propriété Industrielle ou auprès d'autres offices nationaux ou régionaux, les frais correspondants étant à la charge de la cessionnaire.

Article 10 : DROIT APPLICABLE - LITIGE

Le présent contrat est soumis au droit français.

Tout litige né entre les parties de l'interprétation et/ou de l'exécution du présent contrat sera soumis à défaut d'accord amiable, à la compétence du Tribunal de Grande Instance de Troyes.

Fait en trois exemplaires, dont l'un pour l'enregistrement et d'inscription au RNB et une copie pour chacune des parties.

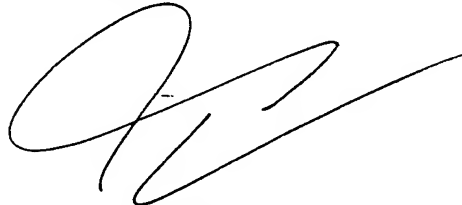
A Rosières-Près-Troyes, le 23 septembre 2003

Le cédant

A stylized, handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Monsieur GAU

Pour la cessionnaire

A stylized, handwritten signature in black ink, featuring a large, prominent loop at the beginning and a long, sweeping horizontal stroke.

Monsieur LAVIGNE